

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TASHAWN THORNE,

Plaintiff,

v.

**CIVIL ACTION NO. 1:17CV202
(Judge Keeley)**

**PROGRESSIVE INSURANCE COMPANY
AND JOHN DOE**

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION [DKT. NO. 23], DENYING MOTION TO
AMEND [DKT. NO. 21], DISMISSING THE CASE WITHOUT PREJUDICE**

On November 29, 2017, the pro se plaintiff, Tashawn Thorne ("Thorne"), commenced a civil action in this Court by filing a complaint against the defendants, Progressive Insurance Company ("Progressive") and John Doe ("Doe") (Dkt. No. 1). The Court provided Thorne with a Notice of General Guidelines for Appearing Pro Se in Federal Court and a Notice of Deficient Pleading (Dkt. Nos. 2, 3), and referred the action to United States Magistrate Judge Michael J. Aloï (Dkt. No. 4). After Thorne was unable to provide necessary information about the defendants (Dkt. Nos. 10, 16), he moved to dismiss his case without prejudice, requesting the "option to pursue [it] at a later time if the need arises" (Dkt. No. 18). Magistrate Judge Aloï granted the motion and dismissed the case without prejudice on March 28, 2018 (Dkt. No. 19).

More than two years later, on July 20, 2020, Thorne moved to amend, add, or correct his complaint (Dkt. No. 21). Attached to his motion was a request for instructions for pro se prisoners filing a complaint pursuant to the Federal Tort Claims Act ("FTCA") (Dkt.

THORNE V. PROGRESSIVE, ET. AL.

1:17CV202

**ORDER ADOPTING REPORT AND
RECOMMENDATION [DKT. NO. 23], DENYING MOTION TO
AMEND [DKT. NO. 21], DISMISSING THE CASE WITHOUT PREJUDICE**

No. 21-1). The Court again referred the action to the Magistrate Judge Aloï, who, on July 23, 2020, entered a Report and Recommendation ("R&R"), recommending that the Court deny Thorne's motion to amend, dismiss the case without prejudice, and direct the Clerk of Court to provide Thorne with Instructions for Pro Se Prisoners Filing a Complaint Pursuant to the FTCA to allow him to re-file his action as a new case (Dkt. No. 23).

In his R&R, Magistrate Judge Aloï explained that his March 28, 2018 order granting Thorne's motion for voluntary dismissal should have taken the form of an R&R. Id. at 3. Also in the R&R, Magistrate Judge Aloï specifically warned Thorne that failing to object would result in a waiver of his right to appeal the ruling. Id. at 3. According to a return receipt filed with the Court, Thorne received the R&R on August 3, 2020 (Dkt. No. 16).

To date, Thorne has not objected to the R&R.¹ Therefore, following a careful review of the record, and finding no clear error, the Court **ADOPTS** the R&R in its entirety (Dkt. No. 23), **DENIES** the motion to amend (Dkt. No. 21), and **DISMISSES** the case without prejudice.

¹ The failure to object to the R&R waives the appellate rights and also relieves the Court of any obligation to conduct a de novo review of the issues presented. See Thomas v. Arn, 474 U.S. 140, 148-152 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

THORNE V. PROGRESSIVE, ET. AL.

1:17CV202

**ORDER ADOPTING REPORT AND
RECOMMENDATION [DKT. NO. 23], DENYING MOTION TO
AMEND [DKT. NO. 21], DISMISSING THE CASE WITHOUT PREJUDICE**

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit a copy of this Order and the Court's Instructions for Pro Se Prisoners Filing a Complaint Pursuant to the FCTA to the pro se plaintiff by certified mail, return receipt requested, to his last known address. The Court further **DIRECTS** the Clerk to remove this case from the Court's active docket.

Dated: August 24, 2020.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE